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From: CN=Mary Grady/OU=DC/O=USEPA/C=US

Sent: Wed 7/11/2012 2:09:11 PM

Subject: Water Law News for July 11, 2012

[Industry Report Questions EPA Approach In Study of Fracking and Drinking Water](#)
[House Passes Hydropower Legislation To Expand Generation, Support Renewables](#)
[White House Opposes Bill to Promote Mines, Says It Would Undercut Environmental Laws](#)
[Environmental Groups File Lawsuit To Overturn Approvals of Shell Spill Plans](#)
[NTSB Reports Kalamazoo River Spill Made Possible by 'Pervasive' Failures at Enbridge](#)
[House Could Start Debate on Package of Reform Bills Week of July 23, Aides Say](#)
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WATER LAW NEWS JULY 11, 2012

HIGHLIGHTS

Drilling

Industry Report Questions EPA Approach

In Study of Fracking and Drinking Water

The Environmental Protection Agency should narrow the focus and increase the rigor of its study on the potential threats hydraulic fracturing may pose to drinking water, according to a critique done for two oil and gas industry associations....

Energy

House Passes Hydropower Legislation

To Expand Generation, Support Renewables

The House has passed a bill (H.R. 5892) to expand hydropower development by streamlining the regulatory process....

Mining

White House Opposes Bill to Promote Mines,

Says It Would Undercut Environmental Laws

The White House announced July 10 its strong opposition to a mining bill on the eve of its scheduled debate on the floor of the House...

Oil Spills

Environmental Groups File Lawsuit

To Overturn Approvals of Shell Spill Plans

ANCHORAGE, Alaska—A coalition of environmental groups July 10 filed a lawsuit in a federal court asking for invalidation of Obama administration approvals of Shell's plans to prevent and respond to oil spills at exploration drilling...

Pipeline Safety

NTSB Reports Kalamazoo River Spill Made

Possible by 'Pervasive' Failures at Enbridge

The National Transportation Safety Board approved a report July 10 stating that pipeline rupture near Marshall, Mich., in July 2010 was made possible by "pervasive organizational failures" at Enbridge Energy LP....

Regulatory Policy

House Could Start Debate on Package

Of Reform Bills Week of July 23, Aides Say

House leaders may combine several regulatory reform bills, including a measure to halt all economically significant federal rules already in the pipeline, into a single package for floor debate the week of July 23, House aides told BNA July...

Superfund

Montrose, Three Others Agree to Spend

\$14.6 Million to Clean Up California Sites

LOS ANGELES—Montrose Chemical Corp. of California and three other companies will pay \$14.6 million to build a groundwater treatment system at two superfund sites in Torrance, under a proposed settlement announced July 9 (United States...

Water Pollution

More Nutrient-Impaired Waters Can Be Restored Through Collaboration, Officials Say

More lakes, rivers, and streams impaired by nutrient runoff from agriculture can be restored through collaboration between the Environmental Protection Agency and the Agriculture Department, officials said July 10....

Water Resources

California Again Delays Vote on Water Bond Measure

LOS ANGELES—California Gov. Jerry Brown (D) signed legislation July 9 to postpone for two years a statewide vote on an \$11.1 billion water bond measure. The legislation (A.B. 1422) delays for the second time a general election ballot...

Inside EPA's Environmental Policy Alert, 7/11/12

<http://insideepa.com/Environmental-Policy-Alert/Environmental-Policy-Alert-07/11/2012/menu-id-132.html>

Latest Blogs

Industry Seeks Pipeline Suit Role

Industry is seeking to intervene in environmentalists' lawsuit challenging the administration's use of streamlined Clean Water Act (CWA) permits for an Arkansas wastewater pipeline, hinting . . .

KEYSTONE XL:

Compromise route around Neb. Sand Hills still crosses sandy hills

STUART, Neb. -- Stepping carefully through a 12-foot-deep canyon gouged into the sandy soil of their family ranch by a long-gone storm, Kurt and Laura Meusch ask a Shakespearean question: What's in a name? The slice of their pasture now set to host the Keystone XL oil pipeline, which TransCanada Corp. agreed to steer around what Nebraska officials mark as the delicate dunes of the state's prized Sand Hills, feels no different to the Meusches than the ground the company was pressured into sidestepping. A sandy hill without the Sand Hills label doesn't ease the threat that they and their vocal neighbors say the new pipeline path poses to their water. Go to story #1

MINING:

House set to advance permit legislation despite White House opposition

Manuel Quinones, E&E reporter

Published: Wednesday, July 11, 2012

The House is expected to vote by tomorrow on legislation aimed at streamlining the permitting process for mining and mineral exploration on federal land.

Nevada Republican Rep. Mark Amodei's H.R. 4402 would require federal agencies to promote the domestic production of materials important to economic growth and national security. GOP leaders have fast-tracked the bill, introduced in April, as part of their bureaucracy-busting agenda.

During the Rules Committee meeting yesterday on the measure, Natural Resources Chairman Doc Hastings (R-Wash.) likened it to efforts at increasing oil and gas production on public land through "cutting red tape and adding certainty to the process." He said, "Now we're focusing on the minerals that are so important to our economy."

Amodei's proposal would set time limits for permit reviews and legal challenges. It also would put new restraints on court injunctions on projects and attorneys' fees connected to environmental lawsuits.

Massachusetts Rep. Ed Markey, the top Democrat on the Natural Resources Committee, also compared the legislation to previous GOP bills by calling it an industry giveaway. He dubbed it a "wolf in sheep's clothing" and said Republicans were promoting "largely the same legislation over and over again."

President Obama yesterday criticized the measure but stopped short of issuing a veto threat. In a statement, the White House said the bill's vague language would undermine environmental safeguards for all types of hardrock mining on public lands.

"Protection of the public through sound Federal decision-making would be circumvented by the bill's provisions, which include, among other things, the elimination of appropriate reviews under the National Environmental Policy Act and the circumvention of public involvement in and the formulation of alternatives to any mining proposal," said the administration's statement.

Democrats are hoping to at least limit the scope of the legislation to only include minerals and other materials that are in short

supply. And they wonder why another bill dealing with critical materials, H.R. 2011, which cleared committee with bipartisan support, is not getting the same treatment.

"That legislation has the support of the National Mining Association, yet the majority has refused to bring it to the floor for nearly a year," Markey said.

Amodei, a former mining industry lobbyist in gold-rich Nevada, defended his measure as a means to discourage bureaucrats and environmental groups from engaging in delay tactics. "You don't know if you're going to get a decision or when you're going to get it," he said about the current system.

Amendments up for debate

The Rules Committee agreed to allow floor votes on the following amendments from:

Rep. Don Young (R-Alaska), to allow for the exemption of certain mining and support activities from roadless rules in national forest land.

Rep. Chip Cravaack (R-Minn.), to make the bill apply retroactively to certain permit reviews.

Rep. Raúl Grijalva (D-Ariz.), to exempt permit reviews for projects that harm hunting, fishing, grazing or recreation on public lands.

Rep. Alcee Hastings (D-Fla.), to exempt individuals and nonprofit groups from limits on attorneys' fees. A second Hastings amendment would allow agencies to extend permit reviews if necessary.

Markey, to enact a first-ever royalty fee of 12.5 percent on hardrock minerals mined on federal land with revenues directed to abandoned mine cleanups.

Rep. Paul Tonko (D-N.Y.), to limit the scope of the bill by offering a stricter definition of critical materials.

ARCTIC:

Enviros launch new legal attack against Shell's drilling plans, but ice poses larger threat

Phil Taylor, E&E reporter

Published: Tuesday, July 10, 2012

Ice cover in Alaska's Beaufort and Chukchi seas is the heaviest it has been over the past decade, creating a natural obstacle that will delay Royal Dutch Shell PLC's drilling plans there until at least early August, the company said today as environmentalists launched a new protest against the company's Arctic drilling plans.

The ice pack, the announcement today of a planned environmental lawsuit and delays in certifying the company's oil spill barge are the latest setbacks for Shell, which has had to run a gantlet of legal and regulatory challenges over the past few years to begin its Arctic drilling project.

"We are recalibrating our drilling expectations," said Shell spokesman Curtis Smith.

The Netherlands-based company, which has invested more than \$4 billion in its Arctic drilling program since acquiring its first leases there in 2005, planned to drill up to two wells in shallow water about 20 miles off the Beaufort coast and up to three wells about 70 miles from the Chukchi coast.

"Certainly, [ice] will curb our season, but we are committed to making the most of the time we do have," Smith added, noting that it is unclear how many of the company's planned wells will be completed this season. "No forecast yet for return ice, but we do expect to stay until October 31 as was originally planned."

In an ironic twist, the Chukchi and Beaufort seas north of Alaska appear to be among the few places in the Arctic experiencing normal ice cover this year, said Walt Meier, research scientist for the National Snow and Ice Data Center in Boulder, Colo. Ice conditions in both seas appear similar to what was seen in the 1980s and 1990s, thanks in part to a cold winter in the Bering and Chukchi seas, Meier said. Longer ice cover gives the sun less time to warm Arctic water, he said, which could speed the return of ice in the early fall.

While the Beaufort ice is beginning to break up from the east, the outlook largely depends on winds and weather patterns over the coming weeks, he said.

The National Weather Service yesterday reported that a large amount of multiyear sea ice -- which did not melt last summer -- is positioned to move into the opening waters of the Beaufort and Chukchi.

"Multi-year ice tends to be thicker and more dense than younger ice," the agency reported. "Significant amounts of multi-year ice near the ice edge could delay the ice retreat by several weeks."

Lawsuit

In a separate development, a coalition of 10 environmental groups said it is filing a lawsuit today in a federal district court in Alaska challenging the Bureau of Safety and Environmental Enforcement's approval of Shell's oil spill-response plan.

A decision on the lawsuit would be the first in a challenge to offshore oil spill-response plans, according to the groups, which include the Natural Resources Defense Council, Oceana and the National Audubon Society, among others. The lawsuit does not intend to halt drilling this summer but rather to strengthen long-term protections for the Arctic.

"BSEE rubber-stamped plans that rely on unbelievable assumptions, include equipment that has never been tested in Arctic conditions, and ignore the very real possibility that a spill could continue through the winter," the groups said in a joint statement.

"The agency has not met minimum legal standards to be sure that Shell's plans could be effective and that Shell has sufficient boats, resources and spill responders to remove a 'worst-case' oil spill in the Arctic Ocean to the 'maximum extent practicable.'"

Shell said it has invested more in oil-spill prevention and response than any other company in the world and is confident its plan will overcome any legal challenges.

"We are confident the approvals of our oil spill-response plans will stand up to any legal review," said Shell spokeswoman Kelly op de Weegh. "These plans are second to none in the world."

Reporter Margaret Kriz Hobson contributed.

OIL AND GAS:

BP delays Alaska project again

Published: Tuesday, July 10, 2012

After discovering its giant Liberty oil project didn't meet company standards, BP PLC said it won't continue with the project slated for the coast of Alaska until some changes are made.

The project was initially expected to be in production by last year. The latest delay is one of many that are raising concerns about whether the project will ever get off the ground.

In December 2010, BP halted construction of the Liberty oil rig to review design and engineering plans in the wake of the company's oil spill disaster in the Gulf of Mexico. The review was recently completed. After examining federal regulation changes, BP Alaska announced the project failed to meet the company's tests, and alterations would be made. The changes will increase the estimated \$1.5 billion cost of the project and will delay drilling by several years.

BP estimates the project could produce 100 million barrels of oil after it drills horizontally for 6 to 8 miles from a man-made gravel island in the Beaufort Sea. BP expects daily oil production of up to 40,000 barrels.

The company said it will "set standards for Arctic oil field development while minimizing the onshore and offshore environmental footprint" (AP/Fuel Fix, July 10). -- HP

GULF SPILL:

Dispersants' impact remains uncertain

Published: Tuesday, July 10, 2012

Even as the Gulf Coast's seafood and tourism industries are slowly recovering after the BP PLC oil spill two years ago, experts said the impacts of the oil dispersants used underwater are still unclear.

"My stomach churns when I hear people say, 'We dodged a bullet,' because I've heard it so many times, but we shouldn't be so quick to wave this off," said James Cowan, a professor at Louisiana State University's School of the Coast and Environment. "This notion of 'Come back to the Gulf, eat seafood, it's fine' is a problem."

Cheryl Murphy, an environmental toxicologist at Michigan State University, said it would be a while before researchers understand the full health risks of the dispersants. That is because it could take years for the contaminated phytoplankton to affect seafood consumed by humans.

But Cowan said it does not bode well that researchers have found high rates of dolphin and sea turtle deaths in the Gulf. He also said 2 percent to 5 percent of Gulf fish have been affected by contamination.

Early this month, a Government Accountability Office report highlighted significant gaps in understanding of the consequences of using dispersants. Even though the federal government has spent \$15.5 million on dispersant studies, researchers still do not fully understand how the chemical affects underwater ecosystems and whether it can bioaccumulate.

Corexit, a combination of 57 chemicals manufactured by Illinois-based Nalco, was the main dispersant used to clean up the 2010 spill. A Nalco spokesman said the product has no link to any human health problems on the Gulf Coast (Alon Harish, ABC News, July 9). -- WW

ClimateWire -- Wed., July 11, 2012 -- Read the full edition

1. BUSINESS: Companies begin to see necessity and profits in adapting to climate change

A company in Ghana sells weather forecasting text messages to farmers. A Colorado-based environmental consulting firm specializing in hydrologic forecasting helps countries from Bangladesh to Romania identify and map flood hazards. And in the United Kingdom, the makers of a popular fruit juice are developing new strains of black currants to keep local farmers in business as milder winters shrink harvests. From real estate to reinsurance, the private sector is beginning to take unusual new steps to protect communities -- and itself -- from the impacts of climate change.

TODAY'S STORIES

2. CITIES: Community groups work to build Louisville, Ky.'s tree canopy to shield it from heat waves

3. SCIENCE: Climate change loads the dice for more extreme weather -- study

4. FORESTS: With fires receding across Colo., the new challenge may be water

5. TRANSPORTATION: U.S. high-speed rail to produce \$26.4B in benefits in coming decades

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9. RENEWABLE ENERGY: U.K. government to cut onshore wind subsidies

10. EMISSIONS: Review of carbon trading system forthcoming, E.U.'s Hedegaard says

E&ETV's OnPoint

11. ELECTRICITY: Clean Line Energy founder discusses Midwest wind power transmission project

EnergyWire -- Wed., July 11, 2012 -- Read the full edition

1. **HYDRAULIC FRACTURING:** Industry-funded report calls out 'weaknesses' in EPA study

A study funded and designed by the oil and gas industry has found that industry should be more involved in U.S. EPA's study of whether hydraulic fracturing contaminates drinking water. "The industry has been doing this for many years," said Bernhard Metzger, a vice president at Battelle Memorial Institute who oversees the organization's oil and gas practice. "It's a weakness of the study that more industry collaboration is not envisioned."

THIS MORNING'S STORIES

2. **REGULATION:** States have widely different levels of regulation -- report

3. **POLITICS:** N.Y. officials accuse Cuomo admin of industry 'collusion'

4. **OIL AND GAS:** Colo. county wants BLM to move forward with Roan Plateau drilling

5. **OIL SANDS:** Internal corrosion 'not a factor' in massive Mich. spill, investigators say

6. **WILDLIFE:** Regulation process for energy development on refuges will start next year -- FWS

7. **WYOMING:** State to provide water cisterns for Pavillion area

8. **OIL AND GAS:** Housing woes will grow with Eagle Ford -- report

9. **PEOPLE:** D.C. law firm's new partner brings international energy experience

10. **PEOPLE:** Anadarko VP promoted to executive committee

11. **PENNSYLVANIA:** Drilling moratorium in 4 counties is criticized

12. **ENERGY MARKETS:** Chesapeake asks court to reverse decision on canceled lease offer

13. **NEW YORK:** Gas company leaves town after voters approve 1-year drilling moratorium

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